



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 20, 2023

IN THE MATTER OF:

Appeal Board No. 629385

PRESENT: MARILYN P. O'MARA, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive Pandemic Unemployment Assistance (PUA) benefits, effective September 13, 2021. The claimant requested a hearing. The Commissioner of Labor objected that the hearing request was not made within the time allowed by statute.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed May 17, 2023 (), the Administrative Law Judge granted the claimant's application to reopen 323-00562, overruled the Commissioner of Labor's timeliness objection, and overruled the initial determination.

The Commissioner of Labor appealed the Judge's decision to the Appeal Board, insofar as it overruled the initial determination holding the claimant ineligible to receive Pandemic Unemployment Assistance (PUA) benefits, effective September 13, 2021. The Board considered the arguments contained in the written statement submitted on behalf of the Commissioner of Labor.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant was employed as a bus monitor by the employer school transportation company beginning August 23, 2021. After working just a couple of weeks, the schools in the municipality shut down due to the ongoing COVID-19 pandemic, and the claimant's employment ended.

The claimant filed a claim for unemployment benefits on September 13, 2021, effective that same date. The claimant completed and submitted an application for Pandemic Unemployment Assistance (PUA) benefits on September 24, 2021.

OPINION: The CARES Act (Public Law §§ 116-136), enacted on March 27, 2020,

allowed states to administer temporary unemployment insurance programs, including the program for Pandemic Unemployment Assistance (PUA) benefits. The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act), (Public Law §§ 116-260), extended the dates for states to administer

these temporary programs to March 14, 2021 (See Unemployment Insurance Program Letter No. 9-21); and the American Rescue Plan Act of 2021 (ARPA) (Public Law §§117-2) further extended the dates for states to administer the programs,

including the program for PUA benefits, to weeks of unemployment ending on or before September 6, 2021. See Unemployment Insurance Program Letter No. 14-21.

No statutory provision allows for the administration of PUA benefits beyond the termination date of September 6, 2021.

Although the claimant does not recall the exact date her employment ended, she testified that it was "a couple of weeks" after she began working. We note that two weeks after August 23, 2021 is September 6, 2021, and therefore conclude that the claimant became unemployed on or after September 6, 2021. The undisputed evidence further establishes that the claimant filed a claim for regular unemployment benefits on September 13, 2021, and filed a claim for PUA benefits on September 24, 2021, both dates that are past the expiration of the PUA program. Since Pandemic Unemployment Assistance benefits were no longer available as of the date the claimant became unemployed, the effective date of her claim, or at the time she applied for PUA, the claimant is not eligible to receive benefits under that program.

DECISION: The decision of the Administrative Law Judge, insofar as appealed from, is reversed.

The initial determination holding the claimant ineligible to receive PUA benefits, effective September 13, 2021, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

MARILYN P. O'MARA, MEMBER